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C O N F I D E N T I A L SECTION 01 OF 07 STATE 024316

SIPDIS

E.O. 12958: DECL: 03/03/2019

TAGS: [PREL](#) [NATO](#) [MARR](#) [UZ](#)

SUBJECT: U.S. RESPONSE TO LATEST VERSION OF DRAFT TRANSIT  
ARRANGMENT WITH UZBEKISTAN

REF: A. UZBEK DIPNOTE 05/2636 01/28/09  
[1](#)B. UZBEK DIPNOTE 05/694 01/04/2009  
[1](#)C. UZBEK DIPNOTE 05/6045 03/03/2009  
[1](#)D. STATE 14153  
[1](#)E. TASHKENT 268

Classified By: DEPUTY ASSISTANT SECRETARY OF STATE FOR  
CENTRAL ASIA GEORGE KROL FOR REASONS 1.4 (B) AND (D)

[1](#)1. (C) SUMMARY: This cable provides formal guidance to Embassy Tashkent in response to the Government of Uzbekistan's latest draft of the exchange of letters dated March 3, 2009 (Ref. D). It is the position of the Department of Defense and Department of State that the U.S. Government can accept virtually all the Government of Uzbekistan's latest edits in an instrument that is not legally binding. The text presented in Paragraph 4 supersedes all previous versions (Refs. A, B and C). Paragraphs 5, 7(2)(f), 7(2)(g), 11, 13, 14 and 19 of the Government of Uzbekistan's proposal have been modified to avoid the suggestion that the exchange of letters will establish an agreement that is binding under international law.

[1](#)2. (C) Per ref E, post should reassure the Government of Uzbekistan that the United States will ship only non-lethal materials through Uzbekistan, and per article three of the exchange of letters, will not transit military forces or weapons, ammunition, equipment, and military materials as listed in the Annex. The United States will also work to ensure transparency with each shipment through Uzbekistan, and believes the notification provisions in article seven accomplish this. Finally, inform the Government of Uzbekistan that it is the U.S. practice in all countries in which it does business that contracts with commercial carriers will include clauses instructing them to respect the regulations and laws of the host country.

[1](#)3. (C) With the U.S. acceptance of the latest draft, Post should request that the Government of Uzbekistan immediately implement the document in the interim until the exchange of letters can be formally signed. Interim implementation will allow incoming U.S. shipments to pass. Request that Post also provide suggestions on the appropriate individual in the Government of Uzbekistan to sign the letter. The Department of Defense proposes that the U.S. signatory be the Assistant Secretary of Defense for Asian and Pacific Security Affairs.

14. (SBU) BEGIN TEXT OF EXCHANGE OF LETTERS:

Exchange of Letters establishing an arrangement between the Department of Defense of the United States of America and the Ministry of Defense of the Republic of Uzbekistan on procedures for land transit, through the territory of the Republic of Uzbekistan, of cargo assigned for the Armed Forces of the United States of America deployed on the territory of the Islamic Republic of Afghanistan by way of involvement of the State Joint Stock Company "Uzbekiston Temir Yullari" and the State Joint Stock Company engaged in international automobile transport operations "Urta Osiyo Trans".

Dear Mr. Minister:

I have the honor to confirm the receipt of your Letter dated , 2009 with regard to the following:

While respecting the sovereignty, territorial integrity and national legislation of the Republic of Uzbekistan,

Taking into consideration the Resolution 1386 (2001) of the UN Security Council adopted by the Security Council on 20 December 2001 on the basis of Chapter VII of the United Nations Charter (reaffirmed in resolution 1833, adopted by

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the Security Council on 23 September 2008), which calls upon the states that share borders with the Islamic Republic of Afghanistan and other UN member states to provide, to the International Security Assistance Forces (ISAF), such assistance as may be required,

With the intent of establishing procedures with a view to organizing the transit, through the territory of the Republic of Uzbekistan, of cargo assigned for the units of the Armed Forces of the United States of America deployed on the territory of the Islamic Republic of Afghanistan;

I have the honor to confirm the following exchange of letters between the Ministry of Defense of the Republic of Uzbekistan and the Department of Defense of the United States of America (hereinafter referred to as the "Participants"):

11. For the purpose of this exchange of letters:

"transit" means movement, through the territory of Uzbekistan by way of railway, automobile, or combined (air-railway or air-automobile) transport, from cargo shipping and destination points which are outside the Republic of Uzbekistan;

"competent authorities" means organs of the Participants entrusted, in accordance with the laws of the respective Participants, with authority to make decisions on the transit of goods in compliance with this exchange of letters;

"clearance" means a document that authorizes the transit of goods;

"goods" means supplied items, except for items listed in the Attachment to this exchange of letters, accepted for transportation, in accordance with the legislation of the Republic of Uzbekistan, by the State Joint Company "Uzbekiston Tenir Yullari" and the State Joint Stock Company engaged in international automobile transport operations "Urta Osiyo Trans";

"supplied items" means oil and lubricants, survival equipment, aerodrome technical assets, logistical equipment and materials, maintenance equipment, clothing, provisions, medical supplies and medical equipment, military personnel life support systems, collective and individual weapons of mass destruction (WMD) protection kits, and other non-combat

life support goods and supplies;

"AIRCC" means the Agreement on International Cargo Communication, dated 1 November, 1951 with amendments as of July 1, 2008;

"hazardous cargo" means cargo, which, due to its nature, could cause explosion, fire, chemical or other kind of environmental pollution or damage to technical assets, devices, equipment and other objects of transport and third persons thus jeopardizing the life and health of people or the environment;

"emergency card" means a document used during an emergency that regulates the actions of railway and automobile company employees, as well as rescue teams following transport accidents. Form of the document is determined in accordance with the laws of the Republic of Uzbekistan;

"transport accident" means an incident that took place as a result of railway or automobile transportation and which caused injury to human life or health and/or damaged the environment, or the property of natural and/or legal persons;

"out-of-gauge load" means a load the size of which exceeds loading dimensions indicated in Technical conditions for loading and strapping, Rules for stowage and strapping of loads in AIRCC railway cars and containers, as well as other normative legal acts of the Republic of Uzbekistan depending on the type of transportation mode.

12. Provisions of this exchange of letters are applied in

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relation to the transit of the cargo through the territory of the Republic of Uzbekistan, which is carried out for the Armed Forces of the United States of America deployed on the territory of Afghanistan.

13. This exchange of letters does not authorize the transit across the territory of the Republic of Uzbekistan of military forces or weapons, ammunition, equipment, and military materials listed in the Annex to this exchange of letters.

14. It is the intent of the Participants that transit of the cargo across the territory of the Republic of Uzbekistan within the framework of this exchange of letters is to be conducted upon the basis of commercial agreements (contracts) concluded by expediting companies on behalf of the American Participant with the State Joint Stock Company "Uzbekiston Temir Yullari" and the State Joint Stock Company for International Road Transport "Urta Osiyo Trans" as follows:

(1) Cargos are to be delivered to Navoi International Airport exclusively by aircraft of the civil air companies Uzbekistan Havo Yollari (Uzbekistan Airways) and Korean Air chartered by the American Participant. The further transportation of the cargos to Afghanistan (Khayraton railway station) through the border cross railway station Galaba and Ayritom check-point, is to be conducted exclusively by the rail and road transport provided by SJSRC "Uzbekiston Temir Yollari" or SJSIRT "Urta Osiyo Trans," as appropriate.

The transit of cargo by air from Navoi Airport to Afghanistan is not authorized.

(2) Transit of goods arriving from the territories of Kazakhstan (through the border cross railway stations Keles and Karakalpakiya) and Turkmenistan (through the border cross railway station Khodjadavlet) to Afghanistan (through the border cross railway station Galaba) is to be conducted by the rail transport provided by SJSRC "Uzbekiston Temir Yollari", as appropriate.

15. When conducting transit of goods, the American Participant

and the expediting company are to make provision for compliance with the requirements of the Agreement of International Good Transport by Rail (AIGTR), legislation of the Republic of Uzbekistan as well as other normative acts applied to the Uzbek railways and roads, including the sanitary-epidemiologic standards of the Republic of Uzbekistan.

¶6. Cargo transiting consistent with this exchange of letters is subject to border and customs control and registration in accordance with the legislation of the Republic of Uzbekistan.

¶7. (1) The transit of cargo is to be performed on the grounds of one-time transit clearance issued by the Ministry of Defense of the Republic of Uzbekistan in accordance with legislation of the Republic of Uzbekistan as underlined in this exchange of letters. The authorization is to be canceled automatically in case of termination of this exchange of letters. In such case, shipping operations in progress are to be completed in accordance with the issued clearance.

(2) In order to obtain clearance of the transit, mentioned in the Item 1 of this Article the competent authorities of the American Participant are to send the request through the diplomatic channels of the Ministry of Defense of the Republic of Uzbekistan in Russian or in English language with the Russian translation attached. The request is to include the following information:

a) list of the transit cargo along with specification, country of origin, quantity in accepted measuring units, the Foreign Economic Activity Commodity Nomenclature code, and the purpose of transit;

b) scheduled transit dates and the names of consignor of goods and the authorized shipping company;

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c) route, including the points of departure and destination points as well and the check points of the State Border of the Republic of Uzbekistan designated for crossing through the customs and border formalities;

d) information:

aa) regarding the transit cargo:

if in containers, the weight;

if not in containers, the weight, center of gravity coordinates, contact surface characteristics, availability of sliding parts or units for fixing during transportation, cargo tightening and strapping, drawings of oversized items of the cargo, and ways of transshipment, if necessary;

bb) regarding hazardous cargo:

name of the substance matter or product, number according to the UN list, packing materials information, transport emergency card availability; in case if the substance matter or product are not in the UN list) information as per the "Informational Passport to be Provided to the UN for Classification or Reclassification of Substances." (UN recommendations on hazardous cargo transportation);

e) document confirming that hazardous cargo is secure by transportation insurance or other financial guarantees in the form of insurance policy, bank guarantee or other indemnity to compensate possible damage to people's health or life, the environment or the national security of the Republic of Uzbekistan, while executing this exchange of letters;

f) should information contained in the request require verification, the American Participant is to immediately provide additional requested data required for granting

clearance for transit;

g) additionally, the request is to contain information on the type of required freight cars, containers and trucks as well on strapping of the cargo being transported on the open and covered railway rolling stock in case of transshipment activities. While transporting hazardous cargo, the list of available fire-fighting, neutralizing and de-gassing equipment is required as well as the information on precautionary procedures for personal protection of escort/guard staff.

(3) Clearance of the transit granted by the Uzbek Participant is to include:

a) consent of the Uzbek Participant to the transit at the amount and in accordance with cargo nomenclature and specification, as well as with the period of time specified by the Uzbek Participant and conditions of performing the transit;

b) instructions on required escort and/or guard of the transported cargo;

c) the order of regulating other issues related to planning, organization and performing the transportation, in the competence of relevant authorities of the Uzbek Participant.

(4) Should there be no obstacles to conducting the transit, the Ministry of Defense of the Republic of Uzbekistan is to issue and forward the clearance to the American Participant not later than 30 days from the moment the request is received.

18. (1) The rolling-stock for transportation of the cargos on the rail ways and road of the Republic of Uzbekistan is to be selected according to the rules applied to the Uzbek rail ways.

(2) The placement of cargo on the rolling-stock, as well as its strapping during the transshipment activities, are to be

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performed in accordance with the loading and strapping requirements effective on the rail ways of the Republic of Uzbekistan.

(3) Acting on behalf of the American participant, an expediting company is to provide strapping equipment at its own expense unless otherwise agreed to in each specific case.

19. (1) In order to proceed along the rail ways of the Republic of Uzbekistan, the cargo transit is to be documented by international rail road waybill in accordance with AIGTR.

In order to use the automobile roads of the Republic of Uzbekistan, the cargo transit is to be documented by an international road waybill in accordance with the Convention on the Contract for the International Carriage of Goods by Road dated May 19, 1956, and its Protocol dated July 5, 1978.

(2) The transportation of hazardous cargo is to be performed by the expediting company in accordance with the rules for transportation of hazardous cargos established by the legislation of the Republic of Uzbekistan, and AIGTR.

Loading and unloading operations processing of transportation documents of materials arriving by air to Navoi International Airport, and transferring by ground to Afghanistan as well as transit of materials proceeding from the territory of Kazakhstan and Turkmenistan to Afghanistan is to be implemented by expeditor companies authorized by the American Participant.

10. Materials transit related traffic accident prevention measures and accident management, as well as determination of

the cause, are to be implemented by the competent authorities of the Republic of Uzbekistan within the framework of its competence and with notification to the American Participant.

¶11. Claims for damages arising from shipments by the expediting company that are governed by contracts done within the framework of this exchange of letters are to be adjudicated in accordance with the laws and regulations of the Republic of Uzbekistan.

¶12. (1) Cost for railway services for transportation of transit export cargo across the territory of the Republic of Uzbekistan is to be established in accordance with rates of the International Railway Transit Tariff (IRTT). Cost for automobile services for transportation of transit and export cargo across the territory of the Republic of Uzbekistan is to be established by the expediting companies and companies providing road transport services in the Republic of Uzbekistan.

(2) Cost calculations for the transportation of cargo as well as other services are to be conducted between the expeditor company acting on behalf of the American Participant and the State Joint-Stock Railway Company "Uzbekiston Temir Yollari" (rail transit) or State Joint-Stock Company of International Automobile Transport "Orta Osiyo Trans" (road transit) consistent with the agreed conditions and the legislation of the Republic of Uzbekistan.

¶13. Uzbek Participant is to take all the required measures on the territory of the Republic of Uzbekistan to ensure safety of cargo transit and is to render assistance in transit in accordance with legislation of the Republic of Uzbekistan.

¶14. Nothing in this exchange of letters is intended to affect existing agreements between the Republic of Uzbekistan and the United States of America.

¶15. The Republic of Uzbekistan may support expediting companies acting on behalf of the American Participant in obtaining non-military items/materials on the territory of the Republic of Uzbekistan for the Armed Forces of the United States of America in Afghanistan on agreement (contract) basis in accordance with the legislation of the Republic of Uzbekistan.

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¶16. Disputes which may appear as a result of application or interpretation of this exchange of letters are to be solved via consultations and negotiations between the Participants.

¶17. Issues arising from the expeditor company's shipment of goods under this exchange of letters are to be regulated consistent with the legislation of the Republic of Uzbekistan.

¶18. The Participants may modify this exchange of letters through a subsequent exchange of letters.

¶19. In case of force majeure circumstances, each Participant may notify the other Participant in writing that it will no longer consider the arrangement effective as of the date 90 days following the date of the notice.

I have the honor to request that this exchange of letters and your affirmative response constitute an arrangement which is to be effective upon receipt of your response and is to remain effective for one year, subject to paragraph 19.

Yours sincerely,

(To be signed by the Minister of Defense of the Republic of Uzbekistan)



ANNEX

LIST OF WEAPONS, AMMUNITION, EQUIPMENT AND MILITARY MATERIALS  
EXCLUDED FROM THE AUTHORIZED COMMERCIAL TRANSIT

The following items, including all their subcategories are prohibited from commercial transit.

3601 - Gunpowder

3602 - Military explosive material (except gunpowder)

3603 - Blasting and detonating fuses, percussion and detonating caps, primers, electrical blasting caps

3604 - Flares, rain missiles, fog signals, and other pyrotechnic devices

8526 - Radar equipment, radio-navigation aids, radio equipment for remote control of arms and military equipment and remote command and control of forces

8710 - Tanks and other self-propelled armored vehicles with or without armament, and parts of them

8802 - Airborne vehicles (helicopters and aircraft); spacecraft (including satellites) and suborbital and space carrier rockets

8906 - Military and salvage ships, auxiliary military ships, except rowing boats

9013 - Telescopic sights for weapons, periscopes, telescopes manufactured as part of machines or other optical devices usable with weapons if they are not mounted; laser sights usable with weapons, if they are not mounted on firearms or are not accompanied by the firearms on which they are to be mounted

9301 - Military weapons, except revolvers, pistols and weapons enumerated in paragraph 9307 of the Foreign Economic Activity Nomenclature

9302 - Revolvers and pistols except those enumerated in paragraph 9303 and paragraph 9304 of the Foreign Economic Activity Nomenclature

9303 - Firearms and other blasting-charge devices

9305 - Spare parts to Firearms and other blasting-charge

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devices

9306 - Bombs, grenades, torpedoes, mines, rockets, and similar military purpose devices and their parts, cartridges, shells, other types of ammunition and their parts, including small shot and cartridge wadding and cartridges for smooth-bore weapons and their parts.

END TEXT OF EXCHANGE OF LETTERS

15. (U) Please direct questions to Mr. Clark Adams, Director for Central Asia (703-697-1795), or Ms. Tressa Guenov, Country Director for Uzbekistan and Turkmenistan (703-697-1862), Office of the Under Secretary of Defense for Policy.  
CLINTON